UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	JOINTLY ADMINISTERED UNDER CASE NO. 98-68798
Builders Transport, Inc., et al.	CHAPTER 11
Debtors.	JUDGE MASSEY
Builders Transport, Inc, Plaintiff, v. Two Trees, a New York general partnership, David C. Walentas, Jane Walentas and the CIT Group/Business Credit, Inc., a New York corporation, Defendants.	ADVERSARY NO. 99-6480

ORDER GRANTING MOTION FOR ORDER DIRECTING THE CLERK OF BANKRUPTCY COURT TO CERTIFY JUDGMENT FOR REGISTRATION IN ANOTHER DISTRICT

On January 11, 2005, the Debtors whose cases are being jointly administered under case no. 98-68798 moved pursuant to 28 U.S.C. §1963 for an order directing the Clerk of this Court to certify the judgment entered against Defendants in this adversary proceeding on July 15, 2004, for the purpose of filing the certified judgment in the Southern District of New York. Defendants have appealed the judgment, but it has not been stayed. Only one Debtor, Builders Transport, Inc. ("BTI"), is a party to this adversary proceeding, and the motion to certify the judgment was

filed in this adversary proceeding and not in the main case. Hence, the Court construes the motion as made by BTI as Plaintiff in this adversary proceeding and as the lead debtor in possession in the main bankruptcy cases.

Defendant CIT filed a response indicating no opposition to the motion; Two Trees, David Walentas and Jane Walentas (the "Two Trees Defendants") filed a response opposing the motion. The Court held a hearing on the motion on February 15, 2005, at which the Court encouraged the parties to work out an arrangement pursuant to which the lien claim that recording a judgment would entail would be protected to the extent of the judgment, so as to protect the business of Two Trees and its partners as much as possible, while protecting the estate. The parties have apparently been unable to work out a compromise.

Debtors filed their respective petitions for relief under Chapter 11 of Title 11 of the United States Code on May 21, 1998 and are operating as Debtors-in-Possession, no trustee having been appointed. On or about October 12, 1999, BTI filed the complaint initiating this adversary proceeding. In an Order dated October 4, 2002, this Court granted in part BTI's Motion for Summary Judgment against Defendants on the issue of liability on Count I of the Complaint. The Two Trees Defendants appealed that Order to the District Court, which affirmed it in an Order dated July 7, 2003.

On July 15, 2004, this Court entered findings of fact and conclusions of law with respect to Count I of the complaint on the issues of damages and a Judgment in favor of Plaintiff and against Defendants in the amount of $1,175,955.44. All remaining counts of the complaint were settled or resolved prior to entry of the Judgment.

Both CIT and the Two Trees Defendants have appealed the Judgment. Neither the Two Trees Defendants nor CIT have sought a stay of the Judgment pending appeal.

Defendants CIT and Two Trees do not have attachable assets in the Northern District of Georgia but do have substantial assets in the Southern District of New York. Defendants do not contend that the individual Defendants have any assets in the Northern District of Georgia.

Bankruptcy Rule 7062(a) provides in part that "Except as stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 10 days after its entry." More than ten days have expired from the entry of the Damages Order. 28 U.S.C. §1963 provides in part: "A judgment in an action for the recovery of money or property entered in any . . . bankruptcy court . . . may be registered by filing a certified copy of the judgment in any other district . . . when the judgment has become final by appeal or expiration of the time for appeal or *when ordered by the court that entered the judgment for good cause shown.*" (Emphasis added). The lack of attachable assets in the Northern District of Georgia and the existence of significant assets in the Southern District of New York, in the absence of a supersedeas bond, constitutes "good cause" for the registration of this Court's judgment in the Southern District of New York, despite the pendancy of appeal from the Damages Order. *See, e.g., Columbia Pictures Television, Inc. v. Krypton Broadcasting of Birmingham, Inc.*, 259 F.3d 1186 (9th Cir. 2001); *Chemiova A/S v. Griffin LLC*, 182 F. Supp.2d 68 (D.D.C. 2002); *Woodward & Dickerson v. Kahn,* 1993 WL 106129 (S.D.N.Y. 1993); *Johns v. Rozet,* 143 F.R.D. 11 (D.D.C. 1992); *Associated Business Telephone Systems Corp. v. Greater Capital Corp.*, 128 F.R.D. 63 (D.N.J. 1989).

The arguments of Two Trees and its partners for denying the motion are without merit.

Accordingly, it is hereby

ORDERED, that the Motion is GRANTED, and the Clerk of Bankruptcy Court is directed to certify the judgment for registration in another district upon payment of the appropriate fee by Plaintiff; and it is further

ORDERED, that Plaintiff is authorized to register the judgment in the Southern District of New York. The Clerk is directed to serve a copy of this Order on counsel for the parties.

Dated: April 22, 2005.

James E. Massey

JAMES E. MASSEY
U.S. BANKRUPTCY JUDGE